

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Richard J. Klein,)	
)	Case No. 1:01-CV-794
Petitioner,)	
)	
vs.)	
)	
Harold Carter,)	
)	
Respondent.)	

O r d e r

On November 15, 2004, United States Magistrate Judge Timothy S. Black issued an order granting Respondent's motion for an extension of time to file an amended return of writ. Petitioner subsequently objected on the ground that the motion for extension was not filed within the twenty-day period following his filing of his amended petition as ordered by the Magistrate Judge. On that basis, Petitioner argues that the motion for extension was untimely and that the Magistrate Judge erred as a matter of law by granting the motion.

Petitioner's argument is fallacious. On June 21, 2004, the Magistrate Judge granted Petitioner's motion to file an amended petition. In the context of that order, he also ordered Respondent to file an amended return of writ within twenty days. On July 6, 2004, 15 days after the Magistrate Judge issued his order, Respondent filed an objection to the June 21 order, effectively tolling the time for the filing of his amended return of writ until after this Court overruled his objection. That occurred on October 27, 2004. Respondent filed his motion for

extension within the twenty-day period following the issuance of this Court's order overruling his objection. The motion for extension was, accordingly, timely, and Petitioner's present objection is not well-founded.

For those reasons, the Court concludes that the Magistrate Judge's November 15, 2004, order granting Respondent's motion for an extension of time was not clearly erroneous or contrary to law. Petitioner's objection to that order (Doc. 60) is hereby **OVERRULED**.

IT IS SO ORDERED.

/s/
Sandra S. Beckwith, Chief Judge
United States District Court